



## COMMONWEALTH of VIRGINIA

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Attorney General

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Virginia College and University Presidents:

The barbaric terrorist attack against Israel on October 7<sup>th</sup> was without excuse or justification. Since then, we've seen tensions rise on our campuses in Virginia amid a spasm of antisemitic protests, chants, and rage. Countless Virginia students of Jewish background feel threatened and unsupported in today's climate on our college campuses.

This is unacceptable.

Concerned students and parents are urging us to act with decisiveness and moral clarity. Our Virginia universities should do more to address antisemitism.

First, groups like "Students for Justice in Palestine" have repeatedly held demonstrations in Virginia where protestors chant "from the river to the sea, Palestine will be free." This statement is a call for the complete destruction of Israel and a denial of its right to exist. Conveniently, these protestors never explain what would happen to the eight million Jews who live between the river and the sea, leading to the inescapable conclusion that the protestors are calling for a second Holocaust against innocent men, women, and children.

These slogans and chants mostly have been met with silence from university leaders, a silence both agitators and the most vulnerable have noticed. The Anti-Defamation League reports a 388% increase in antisemitic incidents compared to the same period last year. Across the country, Jewish students have been threatened in person and online.

The First Amendment does not protect speech that is directed to inciting or producing imminent lawless action, and which is likely to incite or produce such action. *See Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969). I strongly recommend that you review your policies to ensure that you are taking those steps necessary to protect your students and others in your campus community from unlawful incitement beyond the bounds of the First Amendment.

Second, the right to freedom of speech does not shield individuals who commit crimes from prosecution. If you have demonstrators who commit assaults or acts of vandalism, they can and

should be held criminally accountable. You can do this by working with law enforcement and your jurisdiction's Commonwealth's Attorney. If students are threatened, you can inform them of how they can obtain protective orders. In addition, students are, of course, subject to student codes of conduct. Of note, pursuant to § 18.2-422 of the Code of Virginia, it is unlawful for any person over 16 years of age to, with the intent to conceal his identity, wear any mask, hood or other device whereby a substantial portion of the face is hidden or covered so as to conceal the identity of the wearer, to be or appear in any public place, or upon any private property in this Commonwealth without first having obtained from the owner or tenant thereof consent to do so in writing. There are exceptions to this prohibition including but not limited to wearing a mask for a bona fide medical purpose. I urge you to confirm there is sufficient security at any demonstrations to promote student safety and to ensure that Virginia's criminal laws are followed.

Third, consistent with their existing policies, public universities may apply different rules to demonstrations that are initiated by individuals who are not affiliated with their institutions. Some Virginia universities require a school-affiliated sponsor for a non-student to demonstrate on campus; others have created a limited public forum regulating the time, place, and manner of demonstrations. Such rules can help you promote a safer campus environment for your students.

Fourth, I encourage you to remember your own First Amendment voices. In 2017, virtually every college president in Virginia rightly condemned the "Unite the Right" rally in which bigots marched through campus shouting antisemitic statements. We weekly confront the equivalent of multiple "Unite the Right" rallies across this nation, including in Virginia. Your deafening silence in 2023 following your unhesitating condemnation in 2017 has not gone unnoticed.

We need leaders with moral clarity, not leaders who shirk the responsibility of calling out bigotry and antisemitism. I urge you to help demonstrate that, in Virginia, we oppose antisemitism and anti-religious bigotry in all its forms.

Finally, on October 31st, Governor Glenn Youngkin issued an Executive Order instructing the Secretary of Education to coordinate with college and university presidents to promote the safety of, and provide resources for, Jewish and Muslim students, including mental health resources. In February, I created the first Antisemitism Task Force to monitor, gather information, educate, and investigate instances of antisemitism in the Commonwealth. As you consider more counseling and mental health support for students who are affected by anti-religious hatred, my Task Force stands ready to assist.

Now is not the time for moral equivalency or half measures. Now is the time for moral courage and leadership.

Thank You,

A handwritten signature in blue ink, appearing to read "Jason S. Miyares", with a stylized flourish at the end.

Jason S. Miyares  
Attorney General